

ELECTRONICALLY FILED

COMES NOW, the Iowa Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, pursuant to Iowa R. App. P. 6.1002(5) and 6.906, and for its Motion for Iowa Supreme Court Review and, in the alternative, Request for Leave to File Amicus Curiae Brief, states as follows:

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appeal and learned that no party resisted OCA's motion for leave to file a reply brief.

2. On August 5, a single Iowa Supreme Court Justice issued an order denying OCA's motion for leave to file a reply brief and also striking OCA's Proof Brief and Designation of Parts.

3. Pursuant to Iowa R. App. P. 6.1002(5), OCA requests the Iowa Supreme Court review and reverse the denial of OCA's motion.

4. In the event the Iowa Supreme Court upholds the order denying OCA's motion, OCA requests leave to recast its Proof Brief as an Amicus Curiae Brief, pursuant to Iowa R. App. P. 6.906(1). OCA has consulted with attorneys for the Iowa Utilities Board, Environmental Law and Policy Center of Iowa, Environmental Council, Sierra Club, and MidAmerican Energy Company, and the parties unanimously consent to OCA's request to submit an Amicus Brief.

5. OCA represents Iowa consumers and the public generally in all proceedings before the Iowa Utilities Board and in state court judicial review proceedings and appeals. Iowa Code §§ 475A.2(2), (5) (2021). Pursuant to Iowa Code section 476.6(19)(a)(3), OCA is required to participate in utilities' emissions plan and budget (EPB) proceedings before the Iowa Utilities Board. OCA has participated in every EPB since Iowa rate-regulated utilities filed their first EPBs in 2002. OCA's lengthy experience and the perspective gained from participating in the EPB process can assist this Court in resolving the issues on appellate review in this matter. Further, OCA's Amicus Curiae Brief will present this Court with a unique consumer-focused perspective that no other party can provide this Court. Iowa consumers will pay for any costs associated with the EPB approved by the

Iowa Utilities Board. For the benefit of Iowa consumers, OCA seeks to provide its unique perspective and knowledge that will assist this Court in gaining a complete understanding of the implications of a decision in this case. OCA respectfully requests this Court to grant it leave to recast its Proof Brief as an Amicus Curiae Brief in this matter to assist the Court in considering the issues raised in this appeal.

6. OCA acknowledges its request for leave to file an amicus brief is untimely. However, OCA believes good cause exists for this Court to grant OCA leave to file an Amicus Curiae Brief. As noted OCA, has participated in MidAmerican's EPB process since 2002 and offers a unique consumer-focused perspective. Further, the parties unanimously consent to OCA's request to recast its Proof Brief as an Amicus Curiae Brief and are therefore not prejudiced by OCA's request. The Iowa Utilities Board and MidAmerican Energy Company were also able to fully respond to the arguments raised in OCA's proposed Amicus Curiae Brief in their own briefing. Finally, OCA's position—solely representing the interests of Iowa consumers—is currently not adequately represented by the current parties. Iowa consumers will be materially affected by the outcome of the present case.

7. Pursuant to Iowa R. App. P. 6.906(1), OCA has conditionally filed with this motion a version of its Proof Brief recast as an Amicus Curiae Brief.¹

¹ OCA's Proof Amicus Curie Brief is largely the same as its June 9, 2022, Proof Brief, except for small changes to conform with Iowa R. App. P. 6.906 and the removal of OCA's Statement of the Case in an effort to adhere to the maximum word count requirement. OCA's argument remains unchanged.

OCA respectfully requests this Court grant its Motion for Leave to File a Reply Brief or, in the alternative, to grant OCA leave to recast its Proof Brief as an Amicus Curiae Brief.

Dated: August 9, 2022

Respectfully submitted,

JENNIFER C. EASLER
Consumer Advocate

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CERTIFICATE OF FILING AND SERVICE

The undersigned hereby certifies he electronically filed the foregoing Intervenor Office of Consumer Advocate Motion for Iowa Supreme Court Review and, in the alternative, Request for Leave to File Amicus Curiae Brief on August 9, 2022, in EDMS, which will send notice of this filing to all parties and attorneys of record.

<u>/s/ Jeffrey J. Cook</u>	<u>8/9/22</u>
Signature	Date